

EI-2548
KB



"Sims, John A"
<John.Sims@bnsf.com>
09/18/2006 01:48 PM

To <blodgettk@stb.dot.gov>
cc "Sims, John A" <John.Sims@bnsf.com>
bcc

Subject FW: STB Docket No. AB-6 (Sub-No. 436X) BNSF Railway
Company-AbandonmentExemption - near Cody, Park
County, WY

Ken,

See attached message. This is regarding Condition No. 2 in the STB
decision served on March 3, 2006.

Thanks,
John Sims, Paralegal
BNSF - Law Dept
2500 Lou Menk Dr, 3rd Fl
Fort Worth, TX 76131-2828
(817) 352-2376

-----Original Message-----

From: Kathleen_Erwin@fws.gov [mailto:Kathleen_Erwin@fws.gov]
Sent: Monday, September 18, 2006 12:27 PM
To: Sims, John A
Cc: Sims, John A; Batie, Richard A
Subject: Re: STB Docket No. AB-6 (Sub-No. 436X) BNSF Railway
Company-AbandonmentExemption - near Cody, Park County, WY

Mr. Sims

In review of your email I offer the following clarification. It is
unlikely that there are bald eagle nests or roosts in the immediate
project
area; however, I do not know if there are bald eagle nests or roosts
within
1-mile of the project area. Our December 2005 letter issued specific
protective measures of 1-mile. I also do not have first hand knowledge
of
the soils in the project area in regards to potential habitat for Ute
ladies'-tresses habitat. In a conversation with a BLM biologist from the
Cody Field Office I was informed that no bald eagle nests or roosts or
Ute
ladies'-tresses habitat occurs within the project area. If the project
is
completed unfortunately there is nothing we can do to assist you further
in
regards to section 7 consultation.

Kathleen Erwin
Fish and Wildlife Biologist
USFWS-Wyoming Field Office
5353 Yellowstone Road, Suite 308A
Cheyenne, WY 82009
307-772-2374 x28

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| | "Sims, John A" |
| | <John.Sims@bnsf.|

	com>
	09/12/2006 03:36
	PM
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| To: <kathleen_erwin@fws.gov>
|
| cc: "Batie, Richard A" <Richard.Batie@bnsf.com>, "Sims,
John A" <John.Sims@bnsf.com> |
| Subject: STB Docket No. AB-6 (Sub-No. 436X) BNSF Railway
Company-Abandonment Exemption - near Cody, Park County, WY |
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Ms. Erwin,

This confirms our conversation last week regarding the above-referenced rail line and the U.S. Fish and Wildlife Service's (USFWS) letter dated December 9, 2005.

I explained to you that BNSF has been given authority by the Surface Transportation Board (STB) to abandon this rail line. Also, I mentioned that this 0.11-mile rail line had been salvaged by Harris Trucking (Harris), a neighboring landowner. Harris needed to salvage so that he could make room for cement silos for storage of cement in bulk and for better ingress/egress to his property. Unfortunately, in contravention of BNSF's practices to clear all STB environmental/historical conditions prior to salvage, the line was salvaged prior to clearing the environmental conditions and receiving STB approval.

Your letter addresses two species of concern: 1) bald eagle, and 2) Ute ladies'-tresses. Salvage did not occur over or near any waterways and the area was on industrial land. Therefore, you explained that there are likely no bald eagle nests in the area and the soil in the area was not suitable habitat for the Ute ladies'-tresses.

Please confirm that this e-mail is consistent with our conversation.

Sincerely,
John Sims, Paralegal
BNSF - Law Dept
2500 Lou Menk Dr, 3rd Fl
Fort Worth, TX 76131-2828
T - (817) 352-2376